

KENNETH E. DARNELL
Registered Patent Agent

Alabama Office
4832 Upper River Road
Tallahassee, AL 36078
phone/fax 334 252-8887

2010 West 7th Street
Coffeyville, Kansas 67337
phone/fax 620 251-1947
vengypsy@cox.net

FAX TRANSMITTAL

Date: February 24, 2005
To: Examiner Tsidulko
Art Unit 2875
Fax: 703 872-9306
Re: US SN 10/625,299
HOLO 1144 PUS

PLEASE DELIVER THIS RESPONSE TO EXAMINER TSIDULKO AS SOON AS POSSIBLE.

Certificate of Transmission: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent Office this 24th day of February, 2005.

Date: 2/24/05


Kenneth E. Darnell
Reg. No. 26541

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: John Bryan Harvey

Serial No.: 10/625,299

Examiner: Tsidulko, Mark

Filed: 07/22/2003

Art Unit: 2875

For: IMPROVED LUMINAIRES FOR
ILLUMINATION OF OUTDOOR PANELS

Docket: HOLO 1144 PUS

RESPONSE UNDER 37 CFR 1.111

Honorable Commissioner of Patents
Alexandria, Virginia 22313

Sir:

Responsive to the Official Action dated February 17, 2005, the applicant presents reasons for his belief that the Examiner has erred in rejecting claims 1 through 8 and 21 through 27 under either 35 USC 102(b) or 35 USC 103(a) in view of either Barthel or Barthel in combination with Odle et al, Henderson et al or Kelly. Barthel is used either singly or in combination with the other three references in all rejections and is the primary reference in the respective combinations under 35 USC 103(a). Accordingly, failure of the Barthel reference as appropriate prior art causes all rejections to fail. For this reason, primary attention is now directed to the deficiencies of Barthel as a reference against claims 1 through 8 and 21 through 27 under either 35 USC 102(b) or 35 USC 103(a).

On page 2 of the Official Action, the Examiner quite correctly states that Barthel discloses a lamp housing 12, a lamp 24 and a reflector mounted within the housing. The structure of the Barthel reflector is clearly symmetrical about a "vertical" axis and asymmetrical about a "horizontal" axis. The Examiner is apparently taking note of this asymmetrical structure in his contention that the

Certificate of Transmission: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent Office this 24th day of February, 2005.

Date: 2/24/05


Kenneth E. Darnell Reg. No. 26541

reflector of Barthel directs light "in an asymmetric distribution". The Examiner has confused an asymmetric structure with an asymmetric distribution. The reflector of Barthel clearly does not produce an asymmetrical light distribution as is clearly recited in claims 1 through 8 and 21 through 27. The Barthel reflector produces a symmetrical light distribution. Nowhere in the Barthel reference is there any mention whatsoever of the Barthel reflector producing an asymmetrical light distribution. Even a cursory review of the Barthel reference clearly shows that light emanating from the Barthel luminaire is distributed over an environmental surface symmetrically.

The Examiner cannot attribute a capability to a reference that simply does not exist. If the Examiner intends to continue with this incorrect assessment of the function of the Barthel reference, the applicant requests that he point out the location in the Barthel reference wherein a disclosure of the production of an asymmetrical light distribution is provided. Absent such a disclosure in the Barthel reference of such disclosure, the Examiner is requested to provide technical reasons for his contention that the Barthel reflector produces an asymmetrical distribution. The fact that the Barthel reflector is symmetrical about its vertical axis causes the light distribution from the aperture of the Barthel luminaire to be symmetrical. No other light distribution is possible.

Barthel is clearly deficient as a reference against claims 1, 4 and 21 under 35 USC 102(b) and claims 5, 6, 8 24 and 27 under 35 USC 103(a). The deficiencies of Barthel further cause the rejections of claims 2, 3, 7, 22, 23 and 26 under 35 USC 103(a) in respective combinations with Odle et al, Henderson et al and Kelly to fail.

Odle et al merely provides a luminaire having a reflector that produces a "high quality illumination". The applicant fails to understand how such a teaching causes Odle et al to be any more pertinent than every other luminaire that ever existed. The rejections of claims 2 and 22 in view of the combination of Barthel and Odle et al are clearly inappropriate.

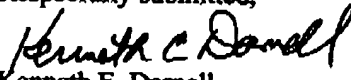
Henderson et al discloses a high bay luminaire. The luminaire of Henderson et al is not capable of producing an asymmetrical light distribution, the light distribution produced by the luminaire of Henderson et al being circular as is extremely apparent from even a cursory review of Henderson et al. The notation in Henderson et al in column 1, lines 54 and 55, refers to the structure of a portion of the Henderson et al structure as being asymmetrical, there being absolutely no mention in Henderson et al that the light distribution produced by the Henderson et al reflector is asymmetrical. As previously noted in the applicant's response to the Official Action dated December 28, 2004, the shape of a reflector and the shape of a light distribution are two entirely different things.

Accordingly, claims 3 and 23 are improperly rejected under 35 USC 103(a) in view of the combination of Barthel and Henderson et al. Both Barthel and Henderson et al are deficient for the reasons detailed above.

Kelly discloses a luminaire having side reflectors. Kelly does not remedy the deficiencies of Barthel as noted above. Kelly does not disclose a reflector capable of producing an asymmetrical light distribution. Accordingly, claims 7 and 26 are improperly rejected under 35 USC 103(a).

The applicant notes the allowance of claims 10 through 20 and 30 through 52 as well as the allowability of the subject matter of claims 9, 28 and 29. The applicant firmly believes that claims 1 through 8 and 21 through 27 also recite allowable subject matter and should be allowed immediately.

Respectfully submitted,


Kenneth E. Darnell
Reg. No. 26541

2010 West 7th Street
Coffeyville, Kansas 67337

620 251-1947